

REVIEW ARTICLE*

The High Court And The Constitution by L ZINES (Australia: Butterworths Pty Ltd, 4th ed, 1997), pp xxvi + 525. Softcover recommended price \$85.00 (ISBN 0 409 31051 4).

This is such a good book that it came as a surprise to read over the rather neutral, if not at times negative, reviews of earlier editions. True the author's treatment of the *Constitution* is rather selective. Most obviously it concentrates on what judges have said about (some of) its provisions rather than other accounts of its significance. But the judicial exegesis of the *Constitution* is in itself a worthy field of study and, after all, there are other books.

The new edition of the book has to contend with the revolution in rights which has occurred since 1992. Sadly, at least for this reviewer, if the author had waited another year or so there may have been less to say on these matters rather than more. The new cases (those handed down before late 1996) are woven into chapter 9 (on judicial power), a retitled chapter 16 (which deals with the express rights at more length) and a new chapter on Representative Government (chapter 15). The author is not happy with all of these developments, but he predicts a bright future for the implications based on Chapter III of the *Constitution* - the rights derived from the separation of judicial power. He is not alone with these views. Speaking of predictions, I note that this edition repeats the observation made in the previous editions concerning the trade and commerce clause (or is it a warning) - this power "remains the least explored in modern times".

A feature of this work has always been its ability to abstract from the discussion of particular provisions. This is most obvious in the treatment of constitutional method in chapters 2 to 4 and chapter 17. The earlier chapters continue the subtle and unequalled account of the doctrines of characterisation and incidentality of previous editions. There has been some movement in these areas since 1992 (the date of the 3rd edition); developments which it must be said are not always obviously helpful. Chapter 17 provides a rich account of other constitutional techniques. It might be questioned whether the vocabulary of legalism, formalism, policy, and so forth is adequate to the task. But there is no doubting that these are the terms used by judges and other commentators.

Reflecting on the book as a whole, the choice of topics and the order of their presentation is rather singular. That many Constitutional Law courses have adopted its structure and approach is a tribute to the book's intellectual force and rigour. Whether used in this or other ways, *The High Court And The Constitution* has made itself indispensable to teachers, students and practitioners of Australian Constitutional Law. There is no better book on the subject.

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